

January 11, 2002

Mr. Joe Russell, Chairperson
Board of Environmental Review
723 Fifth Avenue East
Kalispell, MT 59901

Re: Contested Case Status Report for January 25, 2001, Meeting

Dear Chairperson Russell and Members of the Board:

Several new contested case appeals have been received:

M & W Investment	M & W Investment filed two appeals of non-degradation decisions by DEQ in Skyview Subdivision and one appeal of a deviation request denied by DEQ on a subdivision application. Since these cases all involve the same subdivision, I have consolidated them for purposes of appeal.
Conoco, Inc.	Billings Refinery is appealing two sections of its air quality permit dealing with reporting dates for semi-annual monitoring reports and to remove the requirements for a non-stationary source.
Blaine County	Blaine County appeals a notice of violation of the Open Cut Mining Act alleging that it conducted opencut mining operations at the Cronk Ranch Gravel Pit and the Pomeroy Gravel Pit without permits issued by the Department.
Louisiana Pacific	LP's Missoula Particle Board facility appeals several sections of its air quality permit which deal with conditions or requirements of the permit set by DEQ.

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There are two existing contested case appeals currently pending:

Town of Geraldine	The Town of Geraldine filed an appeal of their Montana Pollutant Discharge Elimination Permit. They are appealing the ammonia standard contained in their wastewater treatment facility discharge permit. The parties are scheduled to update the current status of the matter on January 14 at 10 a.m.
Livingston Rebuild Center	The parties have entered an administrative consent decree and request that the Board dismiss the matter. The Board will take up the dismissal in another section of the agenda.

One case is currently on judicial review in the First Judicial District:

United Harvest	Pompey's Pillar initially named the Board as a party to this petition for judicial review. After counsel for the Board filed a motion to dismiss the Board as a party, Pompey's Pillar agreed the Board should be dismissed. The District Court issued an order dismissing the Board.
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One other matter that the Board should consider is a standing interim appointment of Thomas G. Bowe as hearing examiner.

Sincerely,

AGENCY LEGAL SERVICES BUREAU

KELLY M. O'SULLIVAN
Assistant Attorney General

kmo/de
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c: Ms. Sonja Cox
Mr. Thomas G. Bowe
Mr. James Scheier